

**Planning Commission Workshop  
Project Summary**

Project Number	PC11-106FSU
Project Name	Board of Education Frederick Electronics
PC Workshop Date	November 21, 2011

**Proposal:**

The Applicant has proposed a final subdivision plat for the creation of Lot 25 by resubdividing Lot 26 and by adding a portion from Lot 24. The subject property is located at the intersection of Thomas Johnson Drive and Hayward Road.

Lot 26 is currently the site of an administrative office building owned by the Board of Education (BOE) and Lot 24, a warehouse also owned by the BOE. With the construction of the Central Office Building at the corner of E South Street/South East Street, many of the previously existing BOE functions at this site have been relocated. Accordingly, the BOE is subdividing in anticipation of transferring the properties in the future. It should be noted that the properties are currently zoned Institutional (IST). During the 2005 Comprehensive Rezoning, the base zone applied prior to the application of this floating zone was the M1 zone. In order for future tenants to use the properties for purposes other than those supported by the IST district, the properties will need to be rezoned..

**Important Issues:**

**Water and Sewer**

The proposed properties are required to have separate water and sewer connections. A separate sewer and water connection has been proposed on the plat, these connections must be constructed prior to the recordation of the plat.

**Right-Of-Way Dedication**

Per the Engineering Department's request, the Applicant has provided a 10' dedication right-of-way along Thomas Johnson Drive. This ROW was requested due to future improvements to Hayward Road and US15. Upon dedication of this land, the Applicant must provide a ROW Encroachment agreement for any appurtenances such as a patio with benches and tables as well as portions of a driveway that extend into the dedicated area.

**APFO**

The proposal has received APFO certificates as required for water, sewer and roads.

**Nonconforming Features**

As part of the subdivision review, staff confirmed that the subdivision was not creating any nonconforming features to Lots 24-26 in regards to setbacks, parking, impervious surface ratio. Staff's analysis was based on the M1 standards based on the likelihood that the properties will be rezoned in the future.

Randy McClement  
Mayor



Aldermen

Karen Lewis Young  
President Pro Tem

Michael C. O'Connor  
Shelley M. Aloï  
Carol L. Krimm  
Kelly M. Russell

November 9, 2011

David Beard  
125 South Carroll Street, Suite 100  
Frederick, MD 21701

**Re: PC11-106FSU: Frederick Electronics Final Subdivision Plat (NAC #3)**

Dear Mr. David Beard:

Staff has reviewed the above-referenced plan and has no comments.

<i>APPROVAL AGENCIES</i>	<i>NO WRITTEN RESPONSE</i>	<i>RESPONSE NO COMMENT</i>	<i>VERBAL OR WRITTEN COMMENTS ATTACHED OR BELOW</i>
CITY ENGINEERING DEPARTMENT	X		

**Comments are required before this plan can move forward**

\*\*\*\*Important\*\*\*\*

Once **all** of the comments have been addressed, please submit 10 paper copies (**one of which is highlighted**) of the plan and a response letter addressing all agency comments. This office shall receive the resubmission, with all comments addressed, of this plan no later than **November 28** to be placed on the **December 12, 2011** Planning Commission agenda. If you have any additional questions concerning this project, please feel free to contact me at 301-600-1770 or if you prefer by electronic mail at [bmark@cityoffrederick.com](mailto:bmark@cityoffrederick.com).

Sincerely,

Brandon Mark  
City Planner

**Planning Commission Workshop  
Project Summary**

Project Number	PC11-598FSCB
Project Name	Board of Education Frederick Electronics
PC Workshop Date	November 21, 2011

**Proposal:**

The Applicant has proposed a combined forest stand and forest conservation plan for Lots 25 and 26 of the Frederick Electronics subdivision proposal, totaling 7.70 acres.

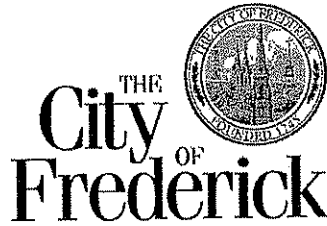
**Important Issues:**

Per Section 721 of the LMC, the 7.70 acre property is required to plant 1.155 (15%) acres of forest on the property. Per Section 712(b)(7)(b) if an Applicant subject to Forest Conservation demonstrates that the requirements for reforestation or afforestation on-site or off-site cannot be reasonably accomplished, the person shall contribute money, at a rate of thirty (30) cents per square foot of the area of required planting into the Frederick City Forest Conservation Fund. The Applicant has proposed to pay fee in lieu for the 1.155 acres of forest planting requirements to the Forest Conservation Fund in the amount of \$15,093.54.

Staff has requested additional information regarding alternatives to the fee in lieu, however has not received the necessary justification required to demonstrate that reforestation or afforestation on-site or off-site cannot be reasonably accomplished. Staff would note that there are no ecologically sensitive areas or existing forest on the site and as such, onsite conservation is not among the top priorities, however, if there are alternative sites owned by the BOE that do contain priority planting areas Staff would support those alternatives being investigated prior to a payment of fee-in-lieu is accepted.

As part of the forest conservation plan the Applicant has been exempted from the mitigation requirements for the remaining area of Lot 24 through the Real Estate Transfer Declaration of Intent.

Randy McClement  
Mayor



Aldermen

Karen Lewis Young  
President Pro Tem

Michael C. O'Connor  
Shelley M. Aloï  
Carol L. Krimm  
Kelly M. Russell

November 9, 2011

Fran Zeller  
125 S. Carroll Street, Suite 100  
Frederick, MD 21701

**Re: PC11-598FSCB: Frederick Electronics Combined Forest Delineation and Preliminary Forest Conservation Plan(NAC #3)**

Dear Mr. Zeller:

Staff has reviewed the above-referenced plan. Staff has divided comments into two sections: issues of major concern, and those that are of a technical nature. In order for this application to be in compliance, please address the following comments:

**ISSUES OF MAJOR CONCERN**

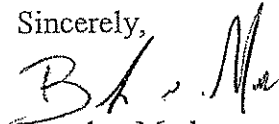
1. Please provide a the necessary justification required to demonstrate that reforestation or afforestation on-site or off-site cannot be reasonably accomplished.

**Comments are required before this plan can move forward**

**\*\*\*\*Important\*\*\*\***

Once **all** of the comments have been addressed, please submit 10 paper copies (**one of which is highlighted**) of the plan and a response letter addressing all agency comments. This office shall receive the resubmission, with all comments addressed, of this plan no later than **November 28** to be placed on the **December 9, 2011 Planning Commission Workshop and December 12, 2011 Planning Commission agenda**. If you have any additional questions concerning this project, please feel free to contact me at 301-600-1770 or if you prefer by electronic mail at [bmark@cityoffrederick.com](mailto:bmark@cityoffrederick.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Brandon Mark', written over the printed name.

Brandon Mark  
City Planner

CC: Gabrielle Dunn, Division Manager of Current Planning



**Planning Commission Workshop  
Project Summary**

Project Number	PC11-599ZTA
Project Name	Zoning Text Amendments Sections 857, 813, 607
PC Workshop Date	November 21, 2011

**Proposal:**

The Economic Development Office of the City of Frederick proposes text amendments to the Land Management Code regarding wineries within the City of Frederick, specificity to include Sections 857, *Winery*, 813, *Commercial Use in Historic Structures*, and 607, *Parking and Loading Standards*.

**Important Issues:**

Section 813 of the LMC allows for historic structures in any zoning district to be used for specified commercial purposes as a conditional use approved by the Zoning Board of Appeals (ZBA). The uses specifically listed in Section 813 include restaurant, restaurant with entertainment, antique or gift shop, museum, information center, business or professional offices as well as other functionally similar uses that the ZBA deems appropriate. In analyzing this list, Staff has concluded that one of the purposes of this provision is to allow historic structures to be used for tourist and entertainment purposes. Based on Frederick's heritage and the availability of historic resources, it is reasonable to conclude that this conditional use provision was established to allow flexibility in reinvesting into historic properties in a way that allows the general population to enjoy them even in zoning districts were otherwise that would be prohibited.

Based on the above, the Applicant is requesting that this conditional use provision be expanded specifically to include wineries. In order to create the opportunity for wineries to be permitted within historic structures in any district, several sections of the LMC are proposed for revision.

**Section 857 Winery**

Wineries are only permitted as a conditional uses in the GC, M1, DB, MU, and MXE zoning districts. The proposed amendment would allow a winery outside of these districts but only within a historic structure in accordance with Section 813 and provided that all of the conditions for a winery as established in Section 857 are met. Since a new winery in a historic structure would also have to comply with the provisions of wineries in general, amendments are proposed to Section 857 to allow for more flexibility in the case of historic sites.

- Subsection (b) is being changed to exclude wineries within historic structures from the minimum setback requirement from a residential lot.

Currently wineries cannot be within 500' of a residentially zoned lot, excluding those in the DB and MU district. This is being proposed because historical structures are often sporadically situated and many times were constructed prior to zoning existing. Accordingly, placing a restriction on the location may prevent historic structures from being used for this purpose. The Applicant is proposing that there be mitigating features for screening or buffering provided, such as with other commercial structures, roadways or forest, to ensure the winery will not

have a substantial adverse impact on adjacent neighborhoods or residential properties and this is ultimately left to the ZBA's discretion in approving the conditional use.

- Section 857 is also being amended to add text regarding permitted special events which are limited to four (4) a year.

Public assemblies, such as an outdoor special event, are permitted under the temporary uses provisions of Section 867; however, Table 867-1 only applies to specific zoning districts where public assemblies are permitted. Since a winery is being permitted in any district under the new provisions, the public assembly for special events would have to be approved in all districts through a temporary use permit. Instead of allowing public assemblies in all districts, which may be problematic, the special event criterion was specialized for the winery conditional use.

- Subsections (e) and (g) are being deleted which refer to the minimum parking requirements and noise ordinance. These references are redundant as they are mandatory as otherwise stipulated in the code.

#### Section 813 Commercial Use in Historic Structures

Two major changes to Section 813 are proposed:

- Just as the reference to Section 813 was added to the Conditional Use for Winery- Section 857- wineries are being added to Section 813 as mentioned above;
- Parking is being addressed as a separate criterion to allow for special circumstances surrounding a historic structure and the ability to provide parking to be taken into consideration. Under the proposal, any new commercial use in a historic property is eligible to receive a modification to the standard parking requirements of Section 607 from the ZBA as part of their conditional use approval.

#### Section 607 Parking and Loading Standards

A winery as a use is a combination of storage, production and retail with possibly other accessory uses. The previous parking requirements for a minimum of 1 space/75 s.f. and a maximum of 1 space/50 s.f. mirrors the Restaurant with Entertainment, which is a much more intensive use with a greater parking demand than a winery for those reasons. The condition for accessory uses to use a maximum of 40% of the building leaves the other 60% for the low intensity use of wine production and storage. Staff reviewed the LMC Parking Schedule, Table 607-1, to compare current "production" use parking requirements which are 1 space/1,500 s.f. and "general retail" parking which is 1 space/300 s.f. As a result, the Applicant is proposing a compromising minimum of 1 space/500 s.f. and change the maximum parking requirement at 1 space/75 s.f. This wider range of parking numbers allows a winery the flexibility to provide parking based on their individual operation and selected accessory uses.

The higher demand for parking for the special events held four times a year would have to be provided. In the Winery conditional use Section 857, the parking may be provided



on or off-site and the Applicant must demonstrate that the special events will not have an adverse impact on the neighborhood, which includes finding parking for the events.

Lastly, in discussing the amendments, Staff has identified opportunities to address potential improvements with regards to preservation of historic structures. Currently Section 813 is eligible to any site in a historic district or sites that are outside of a historic district but that are identified by the City as a historic resource. While Section 813 addresses exterior changes, the regulations regarding those structures that are outside of a HPO are limited. Specifically, exterior changes to a structure outside of the HPO are without limit provided that they are not deemed "detrimental" as determined by the Planning Commission. Should the Planning Commission and Mayor and Board see appropriate, expanding these provisions to include greater oversight over physical alterations to structures subject to this subsection could also be included at this time. As a conditional use provision, compliance with any new regulations regarding preservation of these structures outside the HPO is not mandatory but instead would be applicable to only those projects for which the applicant is seeking approval under this section.

**Attachments:**

Justification narratives from the Applicant for each section  
Draft Ordinance

--DRAFT--

THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO: \_\_\_\_\_

LEGISLATIVE HISTORY

PLANNING COMMISSION

PUBLIC HEARING: November 14, 2011

RESOLUTION SUBMITTED

TO MAYOR & BOARD: NA

MAYOR & BOARD OF ALDERMEN

WORKSHOP: NA

PUBLIC HEARING: NA

**AN ORDINANCE** concerning

**Wineries**

**FOR** the purpose of revising the regulations for a winery by revisiting the parking standards for wineries and their accessory uses, by expanding permitted areas for wineries to include historic structures, and by specializing conditions for wineries uses;

**BY** amending

Section 857 Winery

Section 607 Parking and Loading Standards, Table 607-1 Parking  
Schedule

Section 813 Commercial Use in Historic Structures

Appendix A, "Land Management Code"

The Code of the City of Frederick, 1966 (as amended)

SECTION 1. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that The Code of the City of Frederick, 1966 (as amended), Appendix A, "Land Management Code", Section 857 Winery, be amended as follows:

<sup>42</sup>**Sec. 857 WINERY**

A Winery is permitted as a conditional use in certain zoning districts as specified in the Use Matrix - Table 404-1 and subject to compliance with the following criteria:

- (a) A winery shall comply with all regulations of the Maryland Annotated Code, Article 2B, and the Frederick County Alcoholic Beverages Regulations, including but not limited to any licensing provisions, and shall submit copies of all such licenses with the Conditional Use Application.
- (b) Except in the DB and MU zoning districts and historic structures (in accordance with Section 813), the closest point of a winery structure may not be located less than 500 feet from a residentially zoned lot, unless mitigating features such as screening or buffering provided by other commercial structures, roadways or forest can be utilized to ensure the winery will not have a substantial adverse impact on adjacent neighborhoods or residential properties.
- (c) No more than forty (40%) percent of the total facility square footage may be used for the following accessory ~~[components of the operation including retail sales, tastings, and events.]~~ uses:
  - i. Entertainment – Live entertainment is permitted. In the application, the Applicant shall specify the type of entertainment and days of the week and hours of the day in which entertainment is to be performed. Entertainment which includes sexual conduct, nudity, or obscenity is prohibited;
  - ii. Food Service – Food service is permitted as regulated by the Maryland Annotated Code, Article 2B, the Frederick County Alcoholic Beverage Regulations, and the Frederick County Health Department; and
  - iii. Special Events – Wineries may have up to four (4) outdoor special events per year. The winery must obtain a temporary use permit, and the Applicant must demonstrate that appropriate on or off-site parking arrangements can be made for event parking. The Applicant must also demonstrate that the special event will not have a substantial adverse impact on adjacent properties.

- (d) A scaled building floor plan showing all components of the winery operations shall be submitted with the application along with the square footages of each area. Such plan shall depict at a minimum the following: ingress and egress points, manufacturing, storage, parking and loading, offices, public areas for tours, tasting, events, restrooms, and retail sales. Any areas outside the building (patios, terraces, plazas, etc.) to be used for events and tastings must also be shown and dimensioned.
- ~~[(e) Parking as required in § 607 shall be provided and it must be demonstrated that such parking will not have a substantial adverse impact on the adjacent neighborhood or properties.~~
- ~~(f) Live entertainment is permitted. Entertainment which includes sexual conduct, nudity, or obscenity is prohibited. In the application, the applicant shall specify the type of entertainment and days of the week and hours of the day in which entertainment is to be performed.]~~
- ~~[(g)](e) The applicant shall provide guarantees as deemed necessary by the ZBA that the winery will not constitute a nuisance because of noise or other activities associated with the use. See LMC Section 319 **Revocation of Permits**.~~
- ~~[(h) Noise levels generated by the operation of the winery may not exceed the levels set forth in § 15-21 et. seq. of the Frederick City Code.]~~

**SECTION 2. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that The Code of the City of Frederick, 1966 (as amended), Appendix A, "Land Management Code", Section 607 Parking and Loading Standards, Table 607-1 Parking Schedule, be amended as follows:

**Sec. 607 Parking and Loading Standards**

**Table 607-1 Parking Schedule**

Use	Parking		
	Minimum Parking Spaces	Maximum Parking Spaces	Minimum Bicycle Parking
Winery	1 per <del>[75 sf]</del> <b>500 s.f.</b>	1 per <del>[50 sf]</del> <b>75 s.f.</b>	1 per 10 vehicle spaces

**SECTION 3. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that The Code of the City of Frederick, 1966 (as amended), Appendix A, "Land Management Code", Section 813 Commercial Use in Historic Structures be amended as follows:

## Sec. 813 Commercial Use in Historic Structures

Historically significant structures may be converted to certain specified commercial uses in any zoning district provided that all of the following conditions and requirements can be met:

- (a) Historically significant structures shall only be those structures that are designated as a historic site or located within a historic district and/or listed on the City's inventory of historic resources. Additions or changes to the exterior which are not detrimental to the historic character or appearance of the building or its appurtenances or streetscape shall be approved by the Historic Preservation Commission if the structure is in the Historic Preservation Overlay [HDO] HPO district or by the Planning Commission if the structure is located out of the [HDO] HPO.
- (b) The structure(s) and appurtenances on the same lot may be converted into a restaurant, antique or gift shop, museum, information center, business or professional offices or other functionally similar uses that the Board deems appropriate ~~[provided that off-street parking is provided and that the use meets all other provisions of this ordinance]~~.
- (c) Parking shall be provided in accordance with Section 607. However, the Board may approve modified parking requirements if reasonable mitigation is provided, and/or if in order to provide parking on site, the historic context of the building or site would be compromised.
- ~~[(e)]~~(d) The applicant must provide guarantees as deemed necessary by the Board that a proposed commercial use will not alter the significant historic character of the building or lot and that such use will not constitute a nuisance because of increased traffic, noise, odor, or other activity associated with the commercial activity which would be disruptive to the neighborhood.
- ~~[(d)]~~(e) One non-illuminated sign for each major entrance shall be permitted provided no sign exceeds thirty two (32) square feet in size or is greater than four (4) feet in height. A rendering of all proposed signs must be approved by the Planning Department or Commission who will review them in consultation with the Historic Preservation Commission.
- ~~[(e)]~~(f) Live entertainment may be permitted in conjunction with approval by the Board of a conditional use for a restaurant with entertainment use in conformance with Section 856 of this Code and provided the sound levels shall conform to § 15-21 of the City Code.
- (g) Wineries may be permitted in conjunction with approval by the Board of a conditional use for a winery in conformance with Section 857 of

this Code and provided the sound levels shall conform to § 15-21 of the City Code.

**SECTION 4. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that in the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**SECTION 5.** This Ordinance shall take effect on \_\_\_\_\_ 2011, and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**NOTE:** [Bold Brackets] indicate material deleted  
Underlining indicates material added

**APPROVED:**

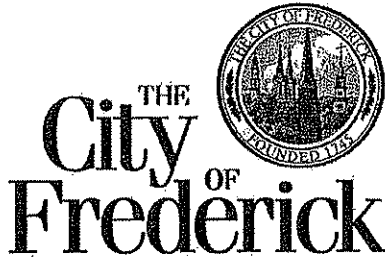
**PASSED:**

\_\_\_\_\_  
**RANDY MCCLEMENT, Mayor**

\_\_\_\_\_  
**RANDY MCCLEMENT, President,  
Board of Aldermen**

**Approved for Legal Sufficiency:**

\_\_\_\_\_  
**Legal Department**



For Official Use Only	
PC Case Number:	11-599
Hearing Date:	
DRC Date:	
Text Amendment Fee:	\$ 0
\$4,400.00	
Date Paid:	

Planning Department \* 140 W. Patrick Street \* Frederick, Maryland 21701 \* 301.600.1499

## APPLICATION FOR LAND MANAGEMENT CODE TEXT AMENDMENT

Please legibly print or type the following Land Management Code Text Amendment Application in its entirety. Incomplete applications will not be accepted. Submit the application, along with fee, and twenty eight (28) copies of the application and support documentation on or before 3:00 p.m. on the application deadline date.

OWNER INFORMATION	
Name:	Richard Griffin
Firm/Company:	City of Frederick Department of Economic Development
Address:	101 North Court Street Frederick MD 21701
Phone:	301-600-6361
email:	cgriffin@cityoffrederick.com
<b>REPRESENTED BY</b> - OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.	
Name:	N/A
Firm/Company:	
Address:	
Phone:	
email:	
All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box: <input type="checkbox"/>	
ORDINANCE BEING CHANGED	
LMC Section No:	857-Wineries Sec <del>804</del> Sec 607
Text:	see attached 813

### *Justification*

In June 2008, the City adopted regulations pertaining to wineries as a conditional use in certain zoning districts of the City of Frederick. Until that time, wineries were largely viewed as rural endeavors, with operations occurring on farms and/or agricultural land dedicated to the growing of grapes and production of wine.

The concept of the "urban winery" is gaining in popularity across the country. When viewed in a more urban context, the winery is much like a micro-brewery in terms of impact on the surrounding neighborhoods. The City's first winery, Frederick Cellars, has now been in operation for more 3 years. Having now observed the function of such uses in urban settings, the Department of Economic Development (DED) feels that this use can be beneficial use within historic structures, supporting the rehabilitation and active use of unique and historic buildings within the community.

### *Specific Changes – Explanation*

In subsection (b), DED proposes to add an exception to the distance ruling for historic structures due to the often unique locations, physical characteristics and site constraints of historic buildings. Additionally, DED is proposing a modification to the distance requirement in all commercial zoning districts. Each building, neighborhood and commercial corridor within the City has different characteristics, and the ability to make modifications on a case by case basis based upon the ability to mitigate impact gives both the City and the business community some flexibility while still protecting residential neighborhoods.

In subsection (c), the accessory uses are already defined in the definition of a winery therefore DED sees no reason to re-define those uses in this section. The addition of the subsections is more of a house-keeping item, placing the details of accessory use requirements under the area where accessory uses are discussed. Subsection b-ii, Food service, again is simply clarifying that a winery is permitted to serve food as allowed and regulated by state winery and local health department regulations. Given the level of regulations tied to wineries and the health department, DED sees no need for additional City regulations/limitations. Subsection b-iii is intended to allow urban wineries the opportunity to host special events as many other uses can, as permitted in the LMC under a temporary use permit. Given the difference between standard indoor entertainment and the occasional large event, the everyday operations of the winery should not be determined by the larger events. However, through a temporary use permit the winery would need to make arrangements for adequate parking, show consideration for surrounding neighborhoods, etc.

Changes to subsection (e), (f) and (g) are merely house-keeping. For (e), staff agreed that the inclusion of a "Winery" parking requirement in Section 607 implicitly means that wineries must meet this standard, and therefore it is duplicative to restate it in this section. For (f), this text has been moved under subsection (b) addressing accessory uses, but otherwise remains the same. For (g), this language has been moved to the new subsection (e), which already addresses the issue of noise.



***Ordinance Being Changed – Section 607***

**Winery:**

Minimum Parking Spaces – 1 per 75sf  
Maximum Parking Spaces – 1 per 50sf  
Bike Parking – 1 per 10 vehicle spaces

***Proposed Amendment – Section 607***

**Winery:**

Minimum Parking Spaces – 1 per 500sf  
Maximum Parking Spaces – 1 per 75sf  
Bike Parking – 1 per 10 vehicle spaces

***Justification:***

A winery is a unique blend of storage, production and retail/tasting areas as accessory uses. The previous parking requirements mirrored Restaurant with Entertainment, which is a much more intensive use with a greater parking demand. At most, 40% of a winery can be used for accessory use, leaving a minimum of 60% to storage and production. DED and Planning staff used these percentages to find a blend between the current parking requirements for Retail (1 per 300sf) and for Production (1 per 1,500sf), which averaged out to 1 per 500sf. DED is proposing a minimum of 1 per 500sf, yet allowing a maximum of 1 per 75sf which gives the winery the flexibility to provide more parking if necessary based on their business model.

The proposed winery text amendment (changes to Sec 857) permits wineries to host four (4) special events/festivals per year. For those special events, a special event permit is required and adequate parking to accommodate the event must be provided as part of the special event application. Therefore, the parking as suggested here is not intended to meet the parking demand of these special events.

*Justification:*

Section 813 of the LMC provides a number of options for the adaptive reuse of Historic Structures regardless of zoning to help ensure that such important buildings are preserved through continual use and maintenance. As urban wineries grow in popularity, such a use presents a unique opportunity for the rehabilitation and adaptive reuse of historic structures. Many of Frederick's historic structures are industrial in nature, reflective of Frederick's historically industrial roots. For such structures wineries provide the perfect opportunity to put these industrial buildings back into productive use while providing for a unique tourist attraction and adding to the destination appeal of the community. While a traditional industrial use may be undesirable, a winery is a unique blend of low-intensity production and destination retail. As a conditional use, the Board has the ultimate decision as to whether or not such a use is appropriate for the historic structure in question, while still allowing for greater flexibility for rehabilitation with a desirable use when appropriate.

Planning Commission Workshop  
Project Summary

Project Number	PC11-493PND PC11-494PSU PC11-496FSI PC11-495PFCP
Project Name	Worman's Mill PND Master Plan, Preliminary Subdivision Plat, and Village Center Final Site Plan
PC Workshop Date	November 21, 2011

**Proposal:** The Applicant is requesting approval of a revision to the Worman's Mill Village Center final site plan. The previously approved Town Center (PC07-345FSI) comprised of 92 multi-family units and 64,671 s.f. of commercial space. Parcel A, Block H depicted on the proposed plan was originally proposed for 30 townhouse units, however with the approval of PC07-345FSI, it was left undeveloped and subject to future site plan approval.

The revised plan is almost a complete redesign of the layout from the previously approved final site plan. The proposed plan includes the 171 multi-family units, 30,980 s.f. of shopping center space, and a 36-bed domiciliary care facility. The domiciliary care facility is to be located on the formerly vacant Parcel A, Block H. Additionally, as part of this plan, the Applicant has requested the partial vacation of the Merchant Street right-of-way in order to accommodate the layout as proposed.

The revision to the final site plan will also require revisions to the PND master plan, the preliminary subdivision plat, and forest conservation plan as the proposed increase in residential units within the Village Center will require the transfer of units from other sections of the PND.

Staff has brought these cases forward again for informational purposes to discuss changes to the layout, revisions to the plans, and so the Applicant can receive feedback from the Commission on the major items that will impact the design of the project. These cases will be scheduled for a future workshop prior to going before the Planning Commission for action.

**Important Issues:**

The Applicant has revised/redesigned the plans per comments at the September 27 Staff DRC meeting and the October 17 Planning Commission Workshop. Several of the major revisions included the following:

1. Redesign of the Merchant Street abandonment to allow for the public right-of-way to terminate in a cul-de-sac.
2. Reduction in the amount of shopping center (retail/commercial) square footage provided from 43,869 s.f. to 30,908 s.f.
3. Revision of the park parcel (Parcel A, Block D) to increase area from 0.557 acres to 0.8596 acres. This is due to increased setback provided for the multifamily building and a reduction in the footprint.

4. The density calculation provided under the master plan has been revised to reflect a similar calculation over the entire PND. Previously in the Village Center Section, right-of-ways and the private park were extracted from the density calculation. Per Article 16.10, density is to be calculated by using gross acreage. This has reduced the residential density provided from 20.02 units/acre to 15.38 units/acre. (It should be noted that non-residential and the domiciliary care components are not included in the density calculation.) Using the same acreage to calculate the density from the most recently approved master plan, the previous density was 10.97 units/acre.
5. The inclusion of architectural elevations.
6. The commercial components of Parcel B, Block D and Parcel A, Block J are proposed to be subdivided from the residential components at the request of the Applicant.

### **Density/Intensity**

The Applicant has proposed an increase in the residential density within the Village Center beyond what was previously approved. As noted above, the previously approved master plan was approved for 122 dwelling units within the Town Center. Prior to that, the approved plans showed 94 units not including Parcel A, Block H. The new plans propose 171 units, not including the domiciliary care facility which is not considered "residential" for density purposes. The Applicant is not proposing a change to the maximum density permitted for the PND as a whole, which is 1,497, but instead will achieve this increase the density of the Village Center, by transferring 49 residential units from other sections within the PND to the Village Center.

While the overall density of the entire PND has not changed, the concentration of density within the Village Center has increased from the previously approved plans. Staff has attempted to calculate the change in density from the previous master plan approvals as consistently as possible in order to make a meaningful comparison.

In addition to the consideration of the overall density, Section 16.10(5) of the 1986 Zoning Ordinance states that required lot areas, widths, and yards per Section 4.03 may be reduced within a PND at the discretion of the Planning Commission. Multi-family in the R4 district was permitted provided that the minimum lot area per dwelling unit was equal to 3,630 square feet. With the 2007 revision, the residential components on Block J and I were approved for less square footage/unit at rates of approximately 1,939 square feet/unit and 2,400 square feet/unit, respectively. With the subject revisions, the number of units on these blocks has decreased keeping it within the previous thresholds. The proposed multifamily building, which is being changed with this review, has 110 units on 3.2601 acres resulting in 1,291 square feet/dwelling unit. The Planning Commission must consider the proposed density at this rate.

With regards to the intensity of the commercial portion of the development, the commercial square footage has been reduced from 64,671 s.f. under the approved final site plan (PC07-345FSI) to 30,908 s.f. under the proposed plan, with the most notable amendment being the elimination of the 9,000 square foot restaurant space which elicited a substantial amount of concern from the community with regards to potential impacts.

### **Vacation of Merchant Street**

In order to accomplish the proposed design the Applicant has requested the vacation of a portion of Merchant Street as indicated on the plan. The request must be processed through the Streets and Sanitation Committee and the Planning Commission for recommendation to the Mayor and Board of Aldermen. The Mayor and Board of Aldermen are the approval body for the request per Section 22-22.2 of the City Code. The Streets and Sanitation Commission provided a negative recommendation for approval of the request to the Mayor and Board of Aldermen by a vote of 2-0 with 1 abstention.

From a planning perspective, Staff has several concerns which are more comprehensive in nature. In requesting abandonment, one is asking that the City abdicate its interest, liability and responsibility in that right of way. In essence, this requires the Planning Commission and Mayor and Board to consider the public function that the right of way serves. Unlike a right of way which was dedicated but never constructed or one that provides extremely limited service, Merchant Street was designed as an integral connection in the grid-like road pattern of the town center portion of this contemporary planned community. The abandonment of Merchant Street as proposed will result in a dead end street with a cul-de-sac that is approximately 330' linear feet in length. Both the 1986 Zoning Ordinance and 2005 LMC show preference for "through streets" versus dead end systems on the basis of connectivity and access management. It can be contended that the current "through movement" of this road serves a valuable public purpose in ensuring adequate access to the homes on Merchant Street and beyond.

However, as noted above, Section 22-22.2 does not provide any specific criteria or limitations under the circumstances in which a street can be abandoned. Staff would note that this request is somewhat unique in that the portions of the community surrounding the abandonment have been slated to be developed since the master plan approval. The impetus for the Applicant's request is the pending application for the Village Center which utilizes a portion of the Merchant Street right of way for surface parking and new construction. Without the abandonment of the road as requested, the proposed design is not possible. Staff and the Applicant have continued to work on the design of the roadway to ensure adequate emergency vehicle access from Mill Pond Road to the existing residences on Merchant Street through the developed lot and to ensure that the proposed cul-de-sac at the new terminus of Merchant Street will afford the City the ability to service the existing residences with snow removal and trash pickup.

### **Modification Requests**

The Applicant has provided a modification request letter for Planning Commission consideration (attached). Several of the modifications requested were approved by the Planning Commission under the previously approved final site plan, but due to the extent of the changes under this plan, these modifications must be reapproved.

### **Architectural Elevations**

Architectural elevations have been provided for review with the final site plan. The 1986 Zoning Ordinance provides no criteria for architectural compliance; however, the Planning Commission should employ the use of the elevations to determine the appropriateness of the scale and style of the proposed buildings with surrounding development and uses and in the consideration of compensating features for the modification requests of the Applicant.



**PURSUANT TO VARIOUS SECTIONS NOTED BELOW WITHIN THE CITY OF FREDERICK'S 1986 ZONING ORDINANCE, AS AMENDED, THE FOLLOWING DESIGN STANDARDS ARE BEING REQUESTED TO APPLY SPECIFICALLY TO THE VILLAGE CENTER AND ADJOINING ROADWAYS:**

**Requested New Modification:**

**1. Lot, Setback and Buffer Requirements**

Modification requested to Sections 4, 7, and 11 as allowed for in Sections 16.13 and 16.13.8 subject to Planning Commission approval.

***Request:***

- For lots within the Village Center that adjoin lots within the Village Center; no building and parking lot setback backs, and no buffer requirements are required along the adjoining property lines. This occurs only at the adjoining lot lines between: 1) Parcel A Block D and Parcel B Block D, 2) Parcel A Block D and Parcel C Block D, 3) Parcel B Block D and Parcel C Block D, and 4) Parcel A Block J and Parcel B Block J.

***Compensating Features:***

- Development of a thematic environment similar to an Old Downtown is planned with use of on-street parking, buildings and green spaces located adjacent to the streets, brick sidewalks fronting commercial space, exceptional architecture supporting this theme and complementing the built environment, and planting of street trees beyond that required.
- The requested features are a contributing components to the architectural design of the structures and thematic environment.
- The request is essential to providing buildings and spaces that are joined, interconnected, pedestrian friendly, and supportive of the creation of an Old Downtown thematic and senior friendly environment.

**Approved Modifications: These Modifications were approved on January 12, 2009 as part of the current approved site plan for the Village Center.**

**1. Access Drive Separation**

Modification requested to Section 13.03 as allowed for in Sections 13.03.1 and 2, 16.13 and 16.13.8 subject to Planning Commission approval.

***Modification:***

- Permit access points/driveway/public streets spacing separation as shown on the plan.

***Compensating Features:***

- Development of a thematic environment similar to an Old Downtown is planned with use of on-street parking, buildings and green spaces located adjacent to the streets, brick sidewalks fronting commercial space, exceptional architecture supporting this theme and complementing the built environment, and planting of street trees beyond that required.

- Multiple access points to parking lots and buildings will be provided thereby increasing circulation and emergency response access.
- Appropriate traffic controls signs and pavement markings will be installed and sight distances will be maintained.
- 

## **2. Parking Setbacks and Tabulations**

Modification requested to Sections 14.04 and 14.09 as allowed for in Sections 14.01, 14.03.6, and 16.10.9.a-d, 16.13 and 16.13.8 subject to Planning Commission approval.

### ***Modification:***

- Parking set backs as shown on the Final Site Plan.
- On-site parking requirements are modified to account for on street parking as shown on the Site Plan and summarized on the attached parking tabulation.

### ***Compensating Features:***

- Development of a thematic environment similar to an Old Downtown is planned with use of on-street parking, buildings and green spaces located adjacent to the streets, brick sidewalks fronting commercial space, exceptional architecture supporting this theme and complementing the built environment, and planting of street trees beyond that required.
- Where the parking lots are adjacent to existing residential uses the Level I buffer requirements have been enhanced with additional plantings and a 6' fence per the details provided in the Site Plan has been added.
- Parking quantities provided exceed the requirements for the Village Center by 29 spaces. All spaces are convenient and distributed to adequately service the proposed mixture of uses.
- The 4' setback is consistent with the 3' set back specified in Downtown districts; which is consistent with the Theme of the project.
- The parking tabulation of total spaces required did not take credit for any reductions that will occur because of users that walk, bike or take public transportation. A TransIt bus stop is located on Waterside Drive within the Village Center and bike racks are provided. The Village Center is located within walking/biking distance of thousands of potential users.
- Surplus on-street parking is available on Waterside Dr. and Mill Pond Rd. beyond the Village Center limits but has not been used to satisfy the parking requirements of the project.

## **3. Permitted Projections and Encroachments into Yards:**

Modification requested to Sections 7.05.6.b and c as allowed for in Sections 7.05.6.d, 16.13 and 16.13.8 subject to Planning Commission approval.

### ***Modification:***

- Building projections, including but not limited to cornices, eaves, chimneys, turrets, and bay windows, are permitted to project into any yard without limitation except these structures shall not obscure site distance.

- Open, covered or uncovered stairways; stoops and ramps; roofed stairways and stoops either ground level or cantilevered; are permitted to project into any yard without limitation except these structures shall not obscure site distance.

Note based on our discussion at the 09/12/07 DRC and the November 4, 2008 meeting, up to a three foot (3') projection within the public right-of-way will be requested separately from the City Engineer at the time of building permit application, and that most encroachments and projections are already permitted under several provisions in the Ordinance. This request likely only pertains to encroachments in the required yards or rights-of-way for stoops; these can be reviewed in detail with the Building Permit submission.

***Compensating Features:***

- Development of a thematic environment similar to an Old Downtown is planned with use of on-street parking, buildings and green spaces located adjacent to the streets, brick sidewalks fronting commercial space, exceptional architecture supporting this theme and complementing the built environment, and planting of street trees beyond that required.
- The requested features are a contributing components to the architectural design of the structures and thematic environment.

**4. Access Drive Separation**

Modification requested to Section 13.03 as allowed for in Sections 13.03.1 and 2, 16.13 and 16.13.8 subject to Planning Commission approval.

***Modification:***

- Permit access points/driveway/public streets spacing separation as shown on the plan.

***Compensating Features:***

- Development of a thematic environment similar to an Old Downtown is planned with use of on-street parking, buildings and green spaces located adjacent to the streets, brick sidewalks fronting commercial space, exceptional architecture supporting this theme and complementing the built environment, and planting of street trees beyond that required.
- Multiple access points to parking lots and buildings will be provided thereby increasing circulation and emergency response access.
- Appropriate traffic controls signs and pavement markings will be installed and sight distances will be maintained.